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ViaSat, Inc. and Paradise Datacom, LLC

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA
OAKLAND DIVISION

APPLIED SIGNAL TECHNOLOGY, INC.

Plaintiff,

v.

EMERGING MARKETS COMMUNICATIONS,
INC.; EMC SATCOM TECHNOLOGIES, INC.;
PARADISE DATACOM, LLC; and VIASAT,
INC.,

Defendants,

AND RELATED CLAIMS.

Case No. 09-CV-02180-SBA

**JOINT ADMINISTRATIVE
MOTION FOR LEAVE TO
DESIGNATE ADDITIONAL TERMS
FOR CLAIM CONSTRUCTION
AND [PROPOSED] ORDER**

Hon. Sandra B. Armstrong

Pursuant to Judge Armstrong’s Patent Standing Order No. 4 and Civil Local Rule 7-11,¹ Applied Signal Technology, Inc. (“AST”), Comtech EF Data Corp. (“Comtech”), ViaSat, Inc. (“ViaSat”), and Paradise Datacom, LLC (“Paradise”) (collectively, “the Parties”) respectfully request that the Court grant leave to designate and argue more than 10 terms for claim construction.

Good cause exists to allow the Parties to brief and argue the construction of more than 10 terms. At issue are five separate patents—three asserted by ViaSat and two asserted by AST. A total of 77 claims are asserted across all five patents. Currently, the Parties dispute 13 terms. For each disputed term, there is a genuine disagreement regarding the scope or meaning of the term that the Parties cannot resolve.

Despite the large number of claims at issue, the Parties have worked diligently to minimize the number of disputed terms. In the process, the Parties have met and conferred telephonically on three different occasions and have exchanged numerous written communications. The Parties have made an effort to group related terms and reach compromises, wherever possible. Through these efforts, the Parties began with more than 30 terms in dispute and were able to reduce the number to 13.

Although 13 terms exceeds the 10 allowed under Patent L.R. 4-3 and Judge Armstrong’s Patent Standing Order No. 3, the number of patents, asserted claims, and parties involved in the process justifies granting leave to construe an additional three terms. The Parties will continue to make efforts to further reduce the number of disputed terms during the *Markman* briefing process. Nevertheless, the Parties jointly request that the Court grant leave to designate the following 13 terms for claim construction:

¹ The Court’s Standing Order references Civil Rule 7-10(b), but this rule no longer exists. Instead, we are thus filing this motion pursuant to Rule 7-11.

AST Patents

'641 AND '104 PATENTS

1. "tracking variations/tracking"
2. "signal of interest/generating an error signal from a signal of interest"
3. "estimating"
4. "second differences"

ViaSat Patents

'093 PATENT

5. "correction signals"

'017 PATENT

6. "means for simultaneously transmitting" (includes claim 1 functional language)
7. "means for receiving"
8. "means for selectively generating" (includes claim 1 functional language)
9. "means for combining" (includes claim 1 functional language)

'952 PATENT

10. "estimating channel characteristics"
11. "means...for receiving"
12. "means for transmitting"
13. "means for receiving the composite signal"

Dated: August 24, 2010

FISH & RICHARDSON P.C.

By: /s/ Christopher S. Marchese
Christopher S. Marchese (SBN 170239)
marchese@fr.com

Attorneys for Defendants, Counterclaimants and
Third-Party Plaintiff ViaSat, Inc.
and Paradise Datacom, LLC

1 Dated: August 24, 2010

SANDERS & PARKS P.C.

2 By: /s/ James R. Farmer

3 James R. Farmer (Admitted *Pro Hac Vice*)
4 james.farmer@rocketmail.com

5 Attorneys for Plaintiff and Third-Party
6 Defendants Applied Signal Technology,
7 Inc. and Comtech EF Data Corp.
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DECLARATION OF CONSENT

Pursuant to General Order No. 45, Section X(B) regarding signatures, I attest under penalty of perjury that concurrence in the filing of this document has been obtained from James R. Farmer.

Date: August 20, 2010

FISH & RICHARDSON P.C.

/s/ Christopher S. Marchese
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Attorneys for Defendants, Counterclaimants and
Third-Party Plaintiff, ViaSat, Inc. and Paradise
Datacom, LLC

11103242

[PROPOSED] ORDER

IT IS SO ORDERED that the Parties request for leave to designate the 13 terms identified above for claim construction is hereby **DENIED**.

Dated: August 24, 2010

By: *Saundra B. Armstrong*
Honorable Saundra B. Armstrong
United States District Court Judge